

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STEVE SNYDER-HILL, et al.,

Plaintiffs,

V.

THE OHIO STATE UNIVERSITY,

Defendant.

Case No. 2:18-cv-00736

Judge Michael H. Watson

Chief Magistrate Judge Elizabeth P.
Deavers

PLAINTIFFS’ RESPONSE TO DEFENDANT’S MAY 3, 2021
“NOTICE OF INTENT TO ESTABLISH
STRAUSS INDIVIDUAL SETTLEMENT PROGRAM”

The Ohio State University filed an unprecedented notice on the docket, with a self-serving description of the “Ohio State of today,” purporting to establish a “settlement program.” But the place for legitimate settlement discussions is in confidential communications between counsel, not public Court filings. OSU has no litigation basis for this filing. Yet again, OSU has violated this Court’s rules by discussing purported settlement offers on the public docket. *See* Local Rule 16.3(c) (mediation communications, including “offers to compromise,” are confidential unless all parties to mediation “consent in writing”); 28 U.S. Code § 652(d) (courts must “prohibit disclosure of confidential dispute resolution communications”); S.D. Oh. Supplemental Procedures for Alternative Dispute Resolution § 3.5 (“parties . . . may not disclose information regarding the process, including settlement discussion”). Indeed, OSU’s “Notice” does not even propose a specific settlement framework but rather promises to offer one once the details are “finalized,” further evidencing this filing was not made in good faith. Dkt. 176 ¶ 9.

Contrary to OSU's claims, OSU has not tried to reconcile or restore the bond with its former students. Rather, OSU used the multi-year mediation process to delay resolution, alienate the former students, and refuse to fairly compensate survivors. *Cf. id.* ¶ 12. The survivors have a very different view of the settlement conduct of the "Ohio State of today," but recognize that court filings are not the appropriate place to air such concerns.

As we understand the process, the mediator informed the Court the parties are at an impasse. The vast majority of the Plaintiffs/survivors (in this and the related cases) have not settled with OSU; virtually all of the settling survivors are from a single litigation group. Nothing in OSU's May 3, 2021 "Notice" changes that. *Id.* ¶ 10.

Plaintiffs believe the only way to move forward from this impasse, to hold OSU accountable, and to get some measure of justice, is for litigation to proceed. Plaintiffs respectfully ask that the Court (1) resolve the pending motion to dismiss, including ordering oral argument if the Court believes it would be useful, Dkt. 128 (motion to dismiss), Dkt. 134 (request for oral argument), Dkt. 149 (denying oral argument at that time and stating "if the Court later determines that oral argument on the pending motions would be useful, it shall be scheduled"), and (2) resolve the pending motion for limited discovery depositions, *Garrett v. OSU*, 18-cv-692, Dkt. 173.

Dated: Columbus, OH
May 4, 2021

Respectfully submitted,

By: /s/ Scott Smith, with email permission to
Debra L. Greenberger

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